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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/635,880	08/05/2003	Eric Justin Gould	6057-06101	1594
35690 7590 12/18/2007 MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL, P.C. P.O. BOX 398 AUSTIN, TX 78767-0398				
EXAMINER WINDER, PATRICE L				
ART UNIT 2145		PAPER NUMBER		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/635,880

Applicant(s)

GOULD, ERIC JUSTIN

Examiner

Patrice Winder

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 September 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 23-47, 50-52, 54-80 and 86-109 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 23-47, 50-52, 54-80, 86-109 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on September 28, 2007 has been entered.

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 23-47, 50-52, 54-80, 86-93, 108-109 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The established statutory category of inventions include process (or method), machine, article of manufacture, composition of matter and improvements of the previous categories. Each claim rejected in this section does not fall into any of the statutory categories of invention. The claims appear to be software without an embodied tangible medium. (At the present, claims directed to software must include a tangible embodiment.) Applicant's language such as "when executed", "capable of causing" and "executable" conveys an intended use of the software without specifically claiming the intended use.

As articulated in the claims the intended use of the software does not provide a tangible result or tangible embodiment.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 23-39, 46-47, 50-52, 59-67, 72-74, 86-104, 107 and 109 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thompson-Rohrlich, USPN 5,504,852 (hereafter referred to as Thompson-Rohrlich) in view of Vora et al., USPN 5,819,273 (hereafter referred to as Vora).

5. Regarding claim 23, Thompson-Rohrlich taught a computer readable medium storing instructions that when executed by a computer system connected to a network are capable of causing the computer system to:

define a meta-folder as a type of graphical element, wherein an instantiation of the meta-folder graphical element type is associable with 1) one or more search objects having corresponding search criteria and 2) one or more conventional objects (column 3, lines 9-16);

display, via a first graphical interface of the computer system, a first graphical representation of a first meta-folder instantiated on the computer system (Figure 3); upon selection of the first meta-folder via the first graphical interface:

for any search objects associated with the first meta-folder (column 5, lines 58-59), initiate searching the computer system and the network for conventional objects that satisfy the corresponding search criteria (column 4, lines 44-53); and

display, via the first graphical interface, graphical elements representing 1) any conventional objects located as a result of the searching (column 3, lines 23-30) In Figure 3, Thompson-Rohrlich taught a special icon 30 indicates that the conventional object is the result of a search. Figure 3 also illustrates at least one conventional object without the special icon 30, i.e. conventional objects not resulting from a search. Thompson-Rohrlich taught conventional objects associated with a folder not the result of the searching (column 3, lines 5-8). However, Thompson-Rohrlich does not provide details as to how conventional objects are associated with the metafolder. Vora taught conventional object (such as information sources) being associated with the metafolder (column 9, lines 64-67; column 10, lines 1-3). It would have been obvious to one of ordinary skill in the art at the time the invention was made that incorporating Vora's conventional objects associated with a metafolder in Thompson-Rohrlich's metafolder would have refined the search criteria. The motivation would have been to better articulate the search criteria associated with metafolders.

6. Regarding claims 24-31, Vora taught the network includes a local area network (column 5, lines 26-29), a wide area network (column 5, lines 26-29) and/or the Internet (column 5, lines 47-53) and the network includes a collection of storage systems for storing at least some of the conventional objects located as a result of searching (column 6, lines 37-40, 56-66).

7. Regarding claim 32, Vora taught the network includes a user server connected to the computer system (column 14, lines 39-43).
8. Regarding claims 33 and 34, Vora taught the user server stores the first meta-folder and at least some of the conventional objects located as a result of the searching (column 14, lines 39-43).
9. Regarding claims 35-39, Vora taught the user server is connected to the computer system via a LAN, WAN or Internet and the user server is connected to a content server via the Internet (column 5, lines 26-29, 47-53), wherein the content server is a web-page server (column 5, lines 47-53), an FTP server or a news server (column 17, lines 48-58).
10. Regarding claim 46, Vora taught conventional objects include conventional folders, conventional files, electronic mail, notes, contact or address book items or files containing text, audio or video information (column 6, lines 40-46).
11. Regarding claim 47, Vora taught the search criteria includes wildcard characters (Figure 4A; column 9, lines 38-51).
12. Regarding claims 50 and 51, Vora taught the first meta-folder includes descriptive text, wherein the descriptive text describes the search object (Figure 4A, column 9, lines 44-51).
13. Regarding claim 52, Thompson-Rohrlich taught causing the computer system to display the first meta-folder, the icons representing the conventional objects that satisfy the corresponding search criteria and any conventional objects associated with the first metafolder a single screen of the user interface (Figure 3, column 3, lines 23-30).

14. Regarding dependent claim 109, Thompson-Rohrlich taught the first meta-folder includes at least one search object (column 4, lines 13-22), and wherein the first meta-folder does not statically point to any conventional objects (column 6, lines 58-62).

15. The limitations of remaining claims 59-67, 72-74, 86-104, and 107 are similar to the limitations of previously rejected claims 23-39, 46-47, and 50-52, above.

16. Claims 44-45 and 105-106 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thompson-Rohrlich and Vora as applied to claims 23 and 102 above, and further in view of Khan, USPN 6,546,393 B1 (hereafter referred to as Khan).

17. Regarding claims 44-45 and 105-106, Thompson-Rohrlich-Vora does not specifically teach using a computer system to initiate transfer of a first metafolder through electronic mail. However, Khan further discloses the computer system to initiate a transfer of the first meta-folder via the network, wherein the transfer occurs through electronic mail (column 21, line 55 - column 22, line 32). It would have been obvious to one of ordinary skill in the art at the time the invention was made that incorporating Khan's transferring metafolders by electronic mail in Thompson-Rohrlich-Vora's system for searching and organizing would have prompted system utility. The motivation would have been to allow file transfers of search results without employing a specific file transfer utility.

18. Claims 40-43, 54-58 and 68-71 rejected under 35 U.S.C. 103(a) as being unpatentable over Thompson-Rohrlich and Vora as applied to claims 32 and 60 above, and further in view of Fritsch, USPN 6,233,682 B1 (hereafter referred to as Fritsch).

19. Regarding claims 40-43, Thompson-Rohrlich-Vora does not specifically teach the user server is connected to a vendor server, wherein the first meta-folder is stored on the vendor server or the user server, wherein the vendor server includes a search engine of media products and wherein the media products include books, video tapes, DVDS, CDS and audio cassettes. However, Fritsch, in the same object searching field of endeavor, does disclose a server is connected to a vendor server via the internet, wherein a folder is stored on the vendor server, wherein the vendor server includes a search engine of media products and wherein the media products include books, video tapes, DVDS, CDs and audio cassettes (column 3, line 40 - column 4, line 46). It would have been obvious to one of ordinary skill in the art at the time the invention was made that incorporating Fritsch's vender server with multimedia products into Thompson-Rohrlich's system for searching and organizing would have expanded system utility. The motivation would have been to provide access to heterogeneous file types.
20. Regarding claims 54-55, Fritsch taught the first metafolder contains objects that pertain to music, wherein the computer system initiates playing the music (column 1, lines 10-64; column 4, lines 47-67).
21. Regarding claims 56-58, Fritsch taught the computer system to generate graphical representations that indicate whether the music is owned or un-owned, wherein the computer system to initiate a purchase of the music and the computer system to provide a link from which the user can purchase the music (column 5, line 25 - column 6, line 32).

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22. The limitations of the remaining claims 68-71 are similar to previously rejected claims 40-43, 54-58, above.

23. Claims 75-80 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thompson-Rohrlich and Vora as applied to claim 74 above, and further in view of Treyz et al., USPN 6,587,835 B1 (hereafter referred to as Treyz).

24. Regarding claims 75, 77 and 79, Thompson-Rohrlich does not specifically teach the enhanced device is a personal digital assistant, web-access enabled portable telephone or an audio player (column 9, lines 57-66; column 17, lines 5-10). It would have been obvious to one of ordinary skill in the art at the time the invention was made that incorporating Treyz's plurality of enhanced devices in Thompson-Rohrlich's system for searching and organizing would have improved utility. The motivation would have been to use handheld devices to better assist users in performing wireless transactions.

25. Regarding claims 75-76, Treyz taught the enhanced device is a personal digital assistant and Thompson-Rohrlich taught the instructions are further capable of causing the enhanced device to display the first meta-folder, the representations of the conventional objects that result from the searching, and other objects in an intermingling manner on the a user interface of the enhanced device (column 3, lines 23-30).

26. Regarding claims 77-78, Treyz taught the enhanced device is a web-access enabled portable telephone and Thompson-Rohrlich taught the instructions are further capable of causing the enhanced device to display the first meta-folder, the graphical representations of the conventional objects that result from the searching, and other

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objects in an intermingling manner on the a user interface of enhanced device (column 3, lines 23-30).

27. Regarding claims 79-80, Treyz taught the enhanced device is an audio player and Thompson-Rohrlich taught the instructions are further capable of causing the enhanced device to display the first meta-folder, the graphical representations of the conventional objects that result from the searching, and other objects in an intermingling manner on the a user interface of enhanced device (column 3, lines 23-30).

Conclusion

28. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patrice Winder whose telephone number is 571-272-3935. The examiner can normally be reached on Monday-Friday, 10:30 am-7:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Cardone can be reached on 571-272-3933. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Patrice Winder/
Primary Examiner, Art Unit 2145

December 7, 2007